

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT BENOIT,

Petitioner,

v.

PATRICK GLEBE,

Respondent.

No. C13-5208 RJB

ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
HABEAS CORPUS PETITION AS
UNTIMELY

This matter comes before the Court on the Report and Recommendation of the United States Magistrate Judge Karen L. Strombom. Dkt. 17. Petitioner has filed an objection to the Report and Recommendation asserting that he is entitled to equitable tolling of the statute of limitations based on actual innocence and attorney abandonment. Dkt. 18. The Court has considered the Report and Recommendation, the objection to the Report and Recommendation, and the remaining record.

The Report and Recommendation should be adopted and the petition dismissed as time barred. As detailed in the Report and Recommendation, Petitioner failed to file his petition within one year of the date his state court judgment became final. Petitioner's objection is a restatement of the argument in his habeas petition and as detailed in the Report and Recommendation fails to provide any basis for statutory or equitable tolling. Petitioner's objections are without merit. There are no extraordinary circumstances here that prevented Petitioner from timely filing his petition on his own. Petitioner fails to demonstrate any deception, fraud, or error that prevented him from timely filing his federal habeas petition. Petitioner has also failed to establish the actual innocence standard.

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